

## REMARKS

Reconsideration and allowance of the above-referenced application are respectfully requested. Applicant petitions for a three-month extension of time to reply to the office action mailed July 1, 2010. Reconsideration of the application is respectfully requested.

### REJECTIONS UNDER 35 U.S.C. 112

Claims 19 and 21 stand rejected under 35 U.S.C. 112, first paragraph. The examiner alleges that the specification does not specifically state that the distal end of the implant is cone-shaped such that the diameter of the distal end gradually reduces moving in the distal direction. Applicant notes that Figure 3 clearly shows an implant wherein the distal end (or "distal region" in the amended claims) of the implant is cone-shaped such that the diameter of the distal region gradually reduces moving in the distal direction. Applicant respectfully reminds the examiner that the figures are part of the written description and that the figures can provide support for claim limitations. Applicant respectfully submits that the rejection under 35 U.S.C. 112, first paragraph should be withdrawn.

Claims 19 and 21 stand rejected under 35 U.S.C. 112, second paragraph. Applicant has amended claims 19 and 21 to more clearly define the claimed subject matter. Applicant submits that the claim amendments overcome the rejection under 35 U.S.C. 112, second paragraph.

REJECTIONS UNDER 35 U.S.C. 102(b)

Claims 19, 21, and 31 stand rejected under 35 U.S.C. §102(b) as allegedly being allegedly being anticipated by U.S. Patent No. 5,626,559 to Solomon in view of U.S. Patent No. 5,807,302 to Wandel. However, Solomon fails to teach or suggest every element of claims 19, 21, and 31.

For example, Solomon fails to disclose or suggest a proximal end of a shunt that is substantially flush with the outer surface of the cornea, as recited in claims 19 and 21. To the contrary, Solomon discloses a shunt having a domed, proximal end that is not flush with the outer surface of the cornea. Rather, the domed outer end is raised relative to the outer surface of the cornea. Solomon requires such a domed outer end in order to form a bleb of fluid. New claims 32 and 33 further define that the proximal end has a flat, outer surface. At least Figure 3 provides support for claims 32 and 33.

In view of the foregoing, Applicants respectfully request reconsideration and withdrawal of the rejection of independent claims 19 and 21.

Claim 20 was rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Solomon in view of U.S. Patent No. 5,743,868 to Brown. As discussed above, independent claim 19 recites features that are not taught or suggested by Solomon. Solomon and Brown fail to provide the missing teachings. Claim 20 is patentable based on its dependency on claim 19 as well as on its own merit.

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Serial No. : 10/579,330  
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## CONCLUSION

It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific rejection, issue or comment, does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper.

In view of the above amendments and remarks, reconsideration and allowance of the application are respectfully requested.

No additional fees are believed to be due, however, the Commissioner is hereby authorized to charge any additional fees or credit overpayments to Deposit Account No. 50-0311.

Respectfully submitted,

  
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